

COMPATIBILITY DETERMINATION

CABEZA PRIETA NATIONAL WILDLIFE REFUGE

Commercial Filming Permit

To: Lucky 8 Television / L8B Inc.
33 Broadway, Suite 100,
New York, NY 10279

USE: Lucky 8 Television proposes to film a six-part documentary series for the **Esquire Network** (subsidiary of NBC/Universal) devoted to the story of BORTAC, the specialized division of US Border Patrol, the cartel factions they battle and the people and places affected by the struggle. To film this series, Lucky 8 film crews will be embedded with BORTAC units at U.S. Border Patrol's Ajo, Casa Grande, Nogales, and Douglas stations to film BORTAC operations. The production company has a permit from DHS to be embedded with their BORTAC units.

REFUGE NAME:

Cabeza Prieta National Wildlife Refuge
Pima & Yuma Counties, Arizona

ESTABLISHING AND ACQUISITION AUTHORITY:

President Franklin D. Roosevelt established the Cabeza Prieta National Wildlife Refuge (CPNWR) on January 25, 1939 by Executive Order 8038.

REFUGE PURPOSES:

1. The refuge was “reserved and set apart for the conservation and development of natural wildlife resources, and for the protection and improvement of public grazing lands and natural forage resources...Provided, however, that all the forage resources in excess of that required to maintain a balanced wildlife population within this range or preserve should be available for livestock...” (Executive Order 8038 January 25, 1939).
2. Enactment of the Arizona Desert Wilderness Act of 1990 designated over 90 percent of the refuge as wilderness and created a supplemental refuge purpose of wilderness protection in accordance with the Wilderness Act of 1964.
3. Several other Federal policies, regulations, and laws affect refuge management activities. Preeminent among these is the Endangered Species Act of 1973. This act mandates the protection and recovery of threatened and endangered species.

NATIONAL WILDLIFE REFUGE SYSTEM MISSION:

The mission of the system is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.

DESCRIPTION OF USE:

Lucky 8 Television proposes to film a six-part documentary series for the **Esquire Network** (subsidiary of NBC/Universal) devoted to the story of BORTAC, the specialized division of US Border Patrol, the cartel factions they battle and the people and places affected by the struggle. To film this series, Lucky 8 film crews, under Department of Homeland Security (DHS) authorization will be embedded with BORTAC units at the U.S. Border Patrol's Ajo, Casa Grande, Nogales, and Douglas stations.

As part of this production, Lucky 8 Television will have film crews on standby from time to time at Border Patrol's Ajo Station to embed themselves with local BORTAC units when such units go on missions in pursuit of illegal border crossers. Because the film crews will be embedded with BORTAC units at Ajo Station, they will from time to time access the Cabeza Prieta NWR during BORTAC's operations.

Lucky 8 may use vehicles on public access roads and highways to follow BORTAC crews until they embed with them. In addition to embedding in BORTAC trucks and UTVs, Lucky 8 crews may travel cross country on foot with BORTAC crews as necessary to meet their objectives.

AVAILABILITY OF RESOURCES

Authorizing this operation will require a small expenditure of refuge resources - primarily to process the appropriate documents necessary to issue the permit. Since the applicant will be embedded with Border Patrol and under their jurisdiction while on the refuge, there is little need to monitor the applicant's activity.

Resources to develop the permitting documents are available as part of ongoing day to day operations.

ANTICIPATED IMPACT OF THE ACTION:

Direct Impacts

The primary area affected on the refuge would be the Childs Mountain/Childs Valley area of which mostly lies outside designated wilderness. Because the applicant's film crews will be embedded with Border Patrol's BORTAC personnel, any impacts associated with the film crew should be negligible. Any impacts to refuge trust resources would be from Border Patrol's vehicular traffic where such traffic travels cross-county to apprehend illegal border crossers. It is believed that those incidents (allowed under an MOU between the Departments of Interior, Agriculture, and Homeland Security) would occur with or without the embedded film crews.

Indirect Impacts

There will be no change in the indirect impact to refuge natural and cultural resources. There would however be an enhanced knowledge of BORTAC operations and understanding of border security operations as it relates directly to the refuge. This may have positive or negative effects on public perceptions of illegal border crossings and their effect on natural resources and border security.

Visitor Use

There will be no change in visitor use because this activity is closely tied to existing Border Patrol operations and will not be conducted in any way that would affect visitor use.

Cumulative Impacts

There will be no change in the cumulative impact to refuge natural and cultural resources because this activity is in conjunction with already occurring activities and does not increase or decrease Border Patrol activity on the refuge.

PUBLIC REVIEW AND COMMENT

This compatibility determination will be out for public review for from January 27 through February 6, 2017. It will be posted at the U.S. Post Office and Ajo Public Library in Ajo, AZ and on the refuge's website at http://www.fws.gov/refuge/Cabeza_Prieta/

DETERMINATION

☐ Use is Not Compatible

☒ Use is Compatible with the Following Stipulations

STIPULATIONS NECESSARY TO ENSURE COMPATIBILITY

1. Lucky 8 Television film crews shall stay on public access roads (Charlie Bell Road and El Camino del Diablo) with their motorized transport while on the refuge and only to follow Border Patrol BORTAC agents to departure sites where they will then be embedded with them.
2. Lucky 8 Television crew members shall practice "Leave No Trace" principles and follow all refuge rules and regulations including those identified on the Cabeza Prieta National Wildlife Refuge pamphlet.
3. Lucky 8 Television crew members shall each obtain a refuge permit before entering the refuge. This permit is free but requires the reading and signing of a "hold harmless agreement".
4. The applicant shall notify the refuge manager when they arrive in Ajo to conduct their business and when they leave. Because their operations are tied to Border Patrol's operations and they never know when they will actually be embedded with BORTAC or even when that may take them on the refuge, they do not have to inform the manager of each event or trip to the refuge. However, Lucky 8 Television shall prepare a short description of the number of trips they made to the refuge and map of the general location of these trips within 15 days of leaving the area.
5. Prior to the issuance of a commercial filming permit, Lucky 8 Television shall pay the appropriate fee as identified in 43CFR Part 5, Subpart A.

JUSTIFICATION

The request by Lucky 8 Television to film on the Cabeza Prieta National Wildlife Refuge while embedded with Border Patrol's BORTAC crews will provide a service to the public by providing a first-hand look at BORTAC operations as it is related to Border Security and operations on the refuge. This is only one piece of the entire project as they will also be filming on other lands near the border as far east as the Nogales area. This may also provide an opportunity for the public to see some of the impacts to natural resources associated with illegal border crossings.

Signature: Refuge Manager _____

Signature and Date

Signature: Refuge Chief AZ/NM _____

Signature and Date